

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
	)	PS Docket No. 12-94
FirstNet's Incumbent Relocation	)	
Proposal	)	PS Docket No. 06-229
	)	
	)	WT Docket No.06-150

To: Chief, Public Safety and Homeland Security Bureau

**COMMENTS OF THE STATE OF HAWAII**

The State of Hawaii ("Hawaii") hereby submits these Comments in response to the Commission's Public Notice concerning the relocation proposal of the First Responder Network Authority ("FirstNet").<sup>1</sup> Hawaii is a strong supporter of the Nationwide Public Safety Broadband Network ("NPSBN") initiative being led by FirstNet and recognizes that for the NPSBN to be deployed nationwide incumbent narrowband public safety operations must be cleared from the 758-769/788-799 MHz spectrum band ("Band 14") and relocated to a new spectrum. In authorizing this relocation, the Commission should establish a process that balances the needs of the NPSBN with those of incumbent narrowband public safety operations. This process should ensure a smooth transition for existing Band 14 systems to new spectrum.

FirstNet has initially identified 13 jurisdictions with on-going public safety operations in Band 14.<sup>2</sup> These include operations within the State of Hawaii.<sup>3</sup> The Commission recognizes

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<sup>1</sup> Public Safety and Homeland Security Bureau Seeks Comment on FirstNet's Incumbent Relocation Proposal, Public Notice, PS Docket No. 12-94, PS Docket No. 06-229, WT Docket No. 06-150, DA 15-1253, (rel. November 5, 2015) ("Public Notice").

<sup>2</sup> See <http://www.firstnet.gov/content/board-meeting-march-2015>; March 2015 Board Meetings, Presentation, Spectrum Relocation Board, "Relocation of Existing Public Safety Incumbent's in Band 14," at p.4.

that these “Public safety narrowband systems support mission-critical voice services *essential* to protecting the safety of life health and property.”<sup>4</sup> The public interest demands that these vital mission-critical operations not be compromised in the relocation process.

FirstNet seeks to have existing operations in Band 14 terminated by a date certain.<sup>5</sup> Hawaii agrees that establishment of a target date for the relocation of narrowband public safety operations to new frequencies is an important goal for the Commission to establish. However, it is equally important that a relocation framework be established to accommodate the critical needs of incumbent narrowband public safety systems operating in Band 14.

In prior relocation proceedings, the Commission recognized the need to protect incumbent operations from disruptions and adopted rules to ensure a smooth transition to new spectrum.<sup>6</sup> A similar approach designed to protect incumbent Band 14 public safety operations should now be adopted in the FirstNet relocation proceeding. As the Commission has previously acknowledged, such a framework is essential when mission-critical public safety systems are involved.

Consistent with Commission precedent, any relocation of Band 14 operations should be accompanied by a requirement that FirstNet pay all reasonable costs, including transactional costs, for a transition to comparable facilities. In the 800 MHz band public safety proceeding, the Commission established a process to ensure that all relocated incumbent public safety

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<sup>3</sup> *Id.*

<sup>4</sup> Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012 et al., PS Docket 12-94 et al., Notice of Proposed Rulemaking, 28 FCC Rcd 2715 ¶ 52 (2013). (Emphasis added).

<sup>5</sup> FirstNet proposes that “that the continuation of Commission licenses or other authorizations under Band 14 by any incumbent be conditioned upon the requirement that no operation on Band 14 be permitted without the express consent of FirstNet after July 31, 2017.” FirstNet also requests that “[i]n addition or in the alternative, . . . the Commission consider conditioning any continued operation on Band 14 on the cessation of all operations on Band 14 within 90 days written notice to the Band 14 incumbent(s) from FirstNet that deployment of the NPSBN is to begin in its State.” (“Public Notice, at p.1) (citations omitted).

<sup>6</sup> See Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969 (2004) (“800 MHz Order”).



licensees were fully compensated. “We assign financial responsibility to Nextel for the full cost of relocation of all 800 MHz band public safety systems and other 800 MHz band incumbents to their new spectrum assignments with comparable facilities.”<sup>7 8</sup> Public safety operations in Band 14 now require this same financial support.

The FirstNet Board has committed to paying for relocation costs and it is expected that a federal grant funding notice will be released.<sup>9</sup> This grant program should be structured to cover all reasonable costs required for a transition to comparable facilities. The Commission has defined comparable facilities as those “systems with comparable technological and operational capability.”<sup>10</sup> “Comparable facilities are those that will provide the same level of service as the incumbent’s existing facilities, with transition to the new facilities as transparent as possible to the end user. Specifically, (1) equivalent channel capacity; (2) equivalent signaling capability, baud rate and access time; (3) coextensive geographic coverage; and (4) operating costs.”<sup>11</sup>

It is also important that the transition to new spectrum is “seamless.”<sup>12</sup> Critical public safety operation cannot afford significant disruptions during relocation efforts. If necessary, FirstNet should construct and pay for a redundant system to assure a seamless handoff of existing operations.<sup>13</sup>

The existing narrowband licenses and/or authorizations were granted by the Commission and any new authorizations and/or licenses will need to be granted by the

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<sup>7</sup> *Id.*, at para. 11; Improving Public Safety Communications in the 800 MHz Band, *Supplemental Order and Order on Reconsideration*, WT Docket No. 02-55, 19 FCC Rcd 25120 (2004), at ¶. 70 (“*Supplemental Order*”).

<sup>8</sup> *Supplemental Order*, at ¶70.

<sup>9</sup> *Public Notice*, at p.1.

<sup>10</sup> *800 MHz Order*, at ¶11.

<sup>11</sup> *Id.* at ¶ 201.

<sup>12</sup> See Part 90 of the Commission’s Rules to Facilitate Future Deployment of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, *First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking*, 11 FCC Rcd 1463, 1510 ¶79 (1995) (“Upper 200 Order”).


<sup>13</sup> See *800 MHz Order*, at ¶ 201, “If the reconfiguration of a licensee will entail a significant interruption of service during the relocation process, Nextel will fund the installation of a redundant system.”

Commission. Pursuant to a Congressional mandate, FirstNet is also a licensee of the Commission.<sup>14</sup> Therefore, while FirstNet can be authorized to manage the relocation process, the Commission must maintain ultimate authority over the licensed spectrum and the transition. It can be expected that in most cases FirstNet and the incumbent public safety licensee will agree on a relocation path. However, in those cases where a difference of opinion develops, the Commission must be available to resolve the conflict.

In sum, operations of existing narrowband public safety Band 14 incumbents should not be negatively impacted by the relocation process. All reasonable costs associated with the relocation must be paid by FirstNet. There also should be no significant disruption of critical public safety operations in the transition process. The relocation should result in a system that is comparable.

**Respectfully Submitted,**

**STATE OF HAWAII  
Department of Defense**

By:   
Major General Arthur J. Logan  
Hawaii FirstNet State Point of Contact  
Victoria B. Garcia, Esq.  
Statewide Interoperability Coordinator

Of Counsel:  
Albert J. Catalano  
Keller and Heckman LLP  
1001 G Street, NW  
Suite 500 West  
Washington, D.C. 20001  
Telephone: 202.434.4207  
Facsimile: 202.434.4646  
Email: [catalano@khlaw.com](mailto:catalano@khlaw.com)

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<sup>14</sup> Pub. L. No. 112-96, Title VI, 126 Stat. 256 (codified at 47 U.S.C. §§ 1401 et seq.), "Middle Class Tax Relief and Job Creation Act of 2012."